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10/651,853	08/29/2003	David Duncan	7535.00007	8130

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EXAMINER

CHANG, SUNRAY

ART UNIT	PAPER NUMBER
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2121

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/10/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/651,853

Applicant(s)

DUNCAN ET AL.

Examiner

Sunray Chang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 October 2006.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 5-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 5-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This office action is in responsive to the paper filed on October 19<sup>th</sup>, 2006.

Claims 5 – 17 are presented for examination.

Claims 5 – 17 are rejected.

Claims 1 – 4 are cancelled.

### **Double Patenting**

2. **Claims 5 – 17 are rejected** on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 – 3, 4 – 6 and 7 – 9 of U.S. Patent No. 7,068,164.

Although the conflicting claims are not identical, they are not patentably distinct from each other because, for example, claim 1 of current application is claiming a server, a client, a personal module, an user interface and a virtual machine, U.S. Patent No. 7,068,164 teaches same limitations, yet, more detail. [see claims 1, 4 and 7 of this patent, “7,068,164”]

This is a non-provisional obviousness-type double patenting rejection because the conflicting claims have in fact been patented on June 27<sup>th</sup>, 2006.

### **Claim Rejections - 35 USC § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis

for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by

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another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. **Claims 5 – 17 are rejected** under 35 U.S.C. 102(e) as being anticipated by Mark J. Nixon (U.S. Patent No. 6,806,847, and referred to as **Nixon** hereinafter).

**Regarding independent claim 5,**

- A system for facilities management, [provide enhanced support within a process control environment, Col. 1, Lines 11 – 14] comprising:
  - a server; [host computer, Col. 4, Lines 42 – 40]
  - a client [portable computer system] in communication with the server [host computer], the client residing on a first operating system. [Col. 4, Lines 42 – 40]
  - a personality module in communication with the server, the personality module residing on a second operating system; [field devices, Col. 1, lines 17 – 40; see further Col. 19, lines 13 – 27]
  - a user interface displayed on the client, [Fig. 7 – 14]
  - the user interface designed to receive custom logic scripts from a user [manipulate the information, Col. 18, Lines 40 – 43]; [see also Col. 18, Lines 13 – 43] and
  - a virtual machine [programmed ...control diagnostic activities, Col. 16, Lines 46 – 55], incorporating a programmable logic controller [the portable computer system ... being programmed to carry out field device ... activities, Col. 16, Lines 46 – 55], residing on the

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personality module [module, software routine], [Col. 15, Lines 8 – 20; Col. 18, Line 60 – Col. 19, Line 13]

- the virtual machine [graphical display, Col. 19, Lines 2 – 13; programmed ...control diagnostic activities, Col. 16, Lines 46 – 55] designed to execute the custom logic scripts [user input received from the keypad and sends a command, Abstract; Fig. 7 – 14].

**Regarding dependent claims 6, 7, 11, 12, 15 and 17,**

the portals each include

- a respective set of selected field devices [device, Col. 16, Lines 46 – 55, Col. 18, Lines 36 – 43], inputs [input, Col. 18, Lines 36 – 43], outputs [the information, Col. 18, Lines 36 – 43], and a logic script [user input received from the keypad and sends a command, Abstract; Fig. 7 – 14].

**Regarding dependent claim 8,**

The system of claim 5, wherein:

- the personality module [module, Col. 19, Lines 2 – 13; software routine, Col. 15, Lines 8 – 20] is coupled to a field device [Fig. 6; Fig. 7 – 14]; [Col. 18, Line 60 – Col. 19, Line 13] and
- the personality module [module, software routine] stores any logic scripts [user input, Col. 18, Lines 40 – 43] related [condition] to interacting with the field device [Fig. 12].

**Regarding independent claim 9, and claim 10**

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- A system for facilities management, [provide enhanced support within a process control environment, Col. 1, Lines 11 – 14] comprising:
- an interface residing on a client machine, the interface designed to receive customization information from a user, [a user input from the keypad and sends a command, Abstract]
- the customization information including logic scripts to be used in interacting with field devices; [Fig. 7 – 14, manipulate the information, activated, Col. 18, Lines 40 – 43] and
- a virtual machine [graphical display, Col. 19, Lines 2 – 13; programmed ...control diagnostic activities, Col. 16, Lines 46 – 55], incorporating a programmable logic controller [the portable computer system ... being programmed to carry out field device ... activities, Col. 16, Lines 46 – 55], for performing the logic scripts [manipulate the information, activated, Col. 18, Lines 40 – 43], the virtual machine residing on a personality module within an operating system relative to the client machine. [graphical display, Col. 19, Lines 2 – 13; programmed ...control diagnostic activities, Col. 16, Lines 46 – 55]

**Regarding dependent claim 13,**

The system of claim 9, further including:

- the personality module [module, Col. 19, Lines 2 – 13; software routine, Col. 15, Lines 8 – 20, see also Col. 15, Lines 21 – 45] in communication [information] with at least one device [Fig. 6; Fig. 7 – 14],
- the personality module [module, software routine] including the virtual machine [graphical display, Col. 19, Lines 2 – 13]; [Col. 15, Lines 8 – 20; Col. 18, Line 60 – Col. 19, Line 12] and

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- a display [HUD, Col. 15, Lines 8 – 20] in communication with the personality module [module, software routine], wherein
- the interface [graphical display] is on the display [HUD].

**Regarding independent claim 14,**

- receiving user-defined logic scripts through an interface residing on a client, [user input received from the keypad and sends a command, Abstract; Fig. 7 – 14], wherein
- the logic scripts define system access policies [command];
- performing the user-defined logic scripts [manipulate the information, activated, Col. 18, Lines 40 – 43] with a virtual machine [graphical display, Col. 19, Lines 2 – 13; programmed ...control diagnostic activities, Col. 16, Lines 46 – 55] incorporating a programmable logic controller [the portable computer system ... being programmed to carry out field device ... activities, Col. 16, Lines 46 – 55] the virtual machine residing on an operating system relative to the client. [graphical display, Col. 19, Lines 2 – 13; programmed ...control diagnostic activities, Col. 16, Lines 46 – 55]

**Regarding independent claim 16,**

- A machine-readable media for use in an access control system [host computer],
- the machine-readable media including instructions [software routine] which when executed [executed] by one or more computers in an access control system [computer] cause the access control system to perform the steps of: [Col. 15, Lines 8 – 20]

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- receiving user-defined logic scripts through an interface residing on a client, [implementing the functionality], [Col. 15, Lines 8 – 20] wherein
- the logic scripts define system access policies [functionality]; [Col. 15, Lines 8 – 20]
- performing the user-defined logic scripts with a virtual machine [graphical display, Col. 19, Lines 2 – 13; programmed ...control diagnostic activities, Col. 16, Lines 46 – 55] incorporating a programmable logic controller [the portable computer system ... being programmed to carry out field device ... activities, Col. 16, Lines 46 – 55], [carry out field device activities, Col. 16, Lines 46 – 55] the virtual machine residing on an operating system relative to the client machine. [graphical display, Col. 19, Lines 2 – 13; programmed ...control diagnostic activities, Col. 16, Lines 46 – 55]

**Response to Amendment**

**Claim Rejections - 35 USC § 102**

4. Applicants argue “Nixon does not expressly or inherently disclose a personal module or a virtual machine residing on an operating system apart from a portable computer system or a host computer” is disagreed with. The “personal module”, claimed by the applicants, resides away from the “client” claimed by the applicants. Based on Nixon’s disclosure [Col. 19, lines 14 – 27] “The  routines described herein may, of course, be implemented in a standard multi-purpose CPU or on specifically designed hardware or firmware as desired. When implemented in software, the software may be stored in any computer readable memory such as on a magnetic disk, an optical disk, or other storage medium, in a RAM or ROM of a computer or processor, etc. Likewise, this software may be delivered to a user or a device (such as the wearable computer) via any known



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or desired delivery method including, for example, on a computer readable disk or other transportable computer storage mechanism or over a communication channel such as a telephone line, the internet, etc. (which is viewed as being the same as or interchangeable with providing such software via a transportable storage medium)", the personal module is a routine for setting up the operation of field devices, which can be stored in any storage devices, even only a PLC, has an operating system, which is away from the "client".

5. Based on applicants' amendments, current claim sets can be further rejected by U.S. Patent No. 7,068,164 as a non-provisional obvious-type Double Patenting as listed in current office action by the examiner .

### Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sunray Chang who may be reached Monday through Friday, between 8:00 a.m. and 5:00 p.m. EST. via telephone number (571) 272-3682 or facsimile transmission (571) 273-3682 or email [sunray.chang@uspto.gov](mailto:sunray.chang@uspto.gov).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Knight can be reached on (571) 272-3687.

The official facsimile transmission number for the organization where this application or proceeding is assigned is (571) 273-8300.



Anthony Knight  
Supervisory Primary Examiner  
Group Art Unit 2121  
Technology Center 2100  
U.S. Patent and Trademark Office

January 2, 2007